

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>IN RE:</b>	§	
	§	
<b>MICHAEL GLYN BROWN,</b>	§	<b>CASE NO. 13-35892-H4-7</b>
	§	
<b>LIONHEART COMPANY, INC.,</b>	§	<b>CASE NO. 13-36390-H4-7</b>
	§	
<b>CASTLEMANE, INC.,</b>	§	<b>CASE NO. 13-36407-H4-7</b>
	§	
<b>PRORENTALS, INC.,</b>	§	<b>CASE NO. 13-36408-H4-7</b>
	§	
<b>SUPERIOR VEHICLE LEASING</b>	§	<b>CASE NO. 13-36410-H4-7</b>
<b>CO., INC., and</b>	§	
	§	
<b>MG BROWN COMPANY, LLC,</b>	§	<b>CASE NO. 13-36411-H4-7</b>
	§	
<b>DEBTORS.</b>	§	<b>Jointly Administered Under</b>
	§	<b>Case No. 13-35892</b>

**TRUSTEE'S EMERGENCY MOTION FOR:**

**(1) AUTHORITY TO EMPLOY AUCTION AMERICA, INC. AS  
THE ESTATE'S AUCTIONEER TO SELL PERSONAL PROPERTY IN FLORIDA  
(2) ORDER APPROVING SALE AT AUCTION OF VEHICLES LOCATED IN  
FLORIDA AND OTHER PERSONAL PROPERTY REMOVED FROM FLORIDA  
WAREHOUSE FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES  
AND INTERESTS PURSUANT TO 11 U.S.C. § 363 AND  
(3) APPROVAL OF COMPENSATION OF AUCTIONEER  
(Requesting Hearing for on or before Wednesday, December 11, 2013)**

Pursuant to Local Rule 9013:

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT**

**FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Ronald J. Sommers, Trustee ("Trustee") and files this his Emergency Motion for:

(1) Authority to Employ Auction America, inc. as The Estate's Auctioneer to Sell Personal Property in Florida (2) Order Approving Sale at Auction of Vehicles Located In Florida and Other Personal Property Removed from Florida Warehouse Free and Clear of Liens, Claims, Encumbrances and Interests Pursuant to 11 U.S.C. §363 and (3) Approval of Compensation of Auctioneer ("Motion") and would respectfully show the Court the following:

**I.**  
**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157. This is a core proceeding under 28 U.S.C. § 157(b)(2)(N) and (O).

2. The statutory predicates for the relief requested in this motion are 11 U.S.C. §§ 105, 327, 328, 330 and 363 and Rules 6004, 6005, 6007 and 9014 of the Federal Rules of Bankruptcy Procedure and corresponding Local Bankruptcy Rules. Venue of these proceedings in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The Court has constitutional authority to enter a final order regarding this matter. The sale of property of a bankruptcy estate is an essential bankruptcy matter which triggers the “public rights” exception. *See In re Carlew*, 469 B.R. 666, 672 (Bankr. S.D. Tex. 2012) (discussing *See Stern v. Marshall*, --- U.S. ----, 131 S.Ct. 2594, 180 L.Ed. 2d 475 (2011)). In the alternative, the sale of property of a bankruptcy estate has no equivalent in state law, thereby rendering the Supreme Court’s opinion in *Stern v. Marshall* inapplicable. *Id.*

## **II.**

### **SUMMARY OF REQUESTED RELIEF**

4. First, the Trustee seeks to engage AAI for the bankruptcy estates of Michael Glynn Brown (“Brown”), Lionheart Company, Inc. (“Lionheart”), Prorentals, Inc. (“Prorentals”), Superior Vehicle Leasing Co., Inc. (“Superior”) and MG Brown Company, LLC (“MG Brown Co.”) as his auctioneer to sell personal property located in Florida owned by each of those respective estates (collectively “Estates”).

5. Second, the Trustee seeks an order from this Court approving the sale by auction of certain vehicles located in Florida (collectively “Vehicles”) owned by the various Estates. The vehicle auction will commence January 11, 2014. The Vehicles are currently being stored at AAI.

6. Third, the Trustee also seeks an order from this Court approving the sale by auction of the household furnishings, decor and other personal property owned by Brown that were stored in the “Vehicle Warehouse” (defined below). That personal property is currently being stored with AAI and it will be sold at an auction later in January or February, 2014, as scheduled by AAI. A notice of the auction date for such items will be filed separately with this court.

7. As part of its engagement, AAI also may be auctioning the contents removed from

the property located at 6633 Allison Rd. ("Allison Property"), the contents removed from two storage units (one in Miami Beach and one near the Miami International Airport) as well as jewelry and watches. However, sale of those items will be the subject of a subsequent motion to sell.

**III.**  
**CAUSE FOR EMERGENCY CONSIDERATION**

8. Emergency consideration of this Motion is necessary for the purpose of engaging AAI and approving the auction of the Vehicles because AAI has proposed to proceed with that auction on January 11, 2014 during West Palm Beach Supercar Week. The Trustee has been informed that an auction during that particular week may attract a greater number of potential buyers, thereby driving up sale prices. The Trustee has been informed that AAI needs certainty that it can proceed with that auction and that it will be entitled to compensation as the auctioneer as it will be incurring marketing and advertising expenses, as well as incurring other auction preparation expenses in preparing the Vehicles for show and for sale. If a hearing is held on or before December 11, 2013, then AAI will have 30 days prior to the Vehicle auction to ramp up its marketing efforts and expect that it will be reimbursed for its reasonable out of pocket expenses in preparing for the auction. Moreover, AAI, on an emergency basis, parachuted into this case for the Trustee and began gathering assets and storing assets at a time when the case was moving at a fast pace and assets needed to be locked down and, thus, AAI has been rapidly incurring expenses for its diligent efforts on behalf of the Estates. Further, the Trustee would note that AAI has already incurred the cost to run a full page ad in Hemmings Motor News and Old Cars Weekly and is sending its staff to Daytona Speedway the week of Thanksgiving to pass out flyers advertising the January 11<sup>th</sup> auction during the Trukey Rod Run, a popular hot rod show. The Trustee requests that the Court hold a hearing on or before

December 11, 2013. Currently, there are status conferences scheduled in these jointly administered cases on December 4 and December 11, 2013.

**IV.**  
**GENERAL BACKGROUND**

9. On January 23, 2013 (the "Petition Date"), the Debtor filed a voluntary Chapter 11 petition in the United States Bankruptcy Court for the Southern District of Florida (the "Florida Bankruptcy Court").

10. On September 11, 2013, the CRO filed an Emergency Motion to Reinstate Case, Appoint Chapter 11 Trustee, and Transfer Venue [Doc. No. 424] (the "Motion to Reinstate"). The CRO reported that his investigations of Brown Medical Center, Inc. and other Brown-related entities revealed that immediate action was required to save those companies from financial failure. The CRO further reported that his investigation with respect to the Companies had uncovered significant financial debt, misuse of revenue, and compliance issues. Lastly, the CRO reported that a bankruptcy filing for BMC and other Brown-related entities was likely immanent.

11. On September 24, 2013, the Florida Bankruptcy Court granted the CRO's Motion to Reinstate, reinstating the Chapter 11 case, directing the appointment of a Chapter 11 Trustee, and transferring venue for the case to this Court [Doc. No. 435] (the "Reinstatement Order"). The Florida Bankruptcy Court highlighted the exigency of the transfer to this Court as "necessary to avoid irreparable harm." Reinstatement Order, 5.

12. On September 30, 2013, this Court entered an order approving the appointment of the Trustee as the Chapter 11 Trustee [Doc. No. 457] for the bankruptcy estate of Michael G. Brown ("Brown Individual Bankruptcy Case").

9. On October 11, 2013, this Court, in the Brown Individual Bankruptcy Case, issued an *Order Granting Emergency Motion of Chapter 11 Trustee for Authority to Act on Behalf of Business Entities in the Brown Individual Case* [Case No. 13-35892, Doc. No. 548] (the “Authority Order”). Also on October 11, 2013, this Court issued an Order authorizing the Trustee to file bankruptcy proceeding for the above-captioned other than Brown debtors, [Case No. 13-35892, Doc. No. 552, 553, 554, 555, and 556] (the “Bankruptcy Authority Orders”).

13. Accordingly, pursuant to the Authority Order and the Bankruptcy Authority Orders, on October 15 and 16, 2013, the Trustee filed voluntary petitions initiating bankruptcy cases for the above-styled Debtors, including without limitation MG Brown Company, LLC, Case Number 13-36411 (the “MG Brown Co. Bankruptcy”), Lionheart Company, Inc., Case No. 13-36390 (the “Lionheart Bankruptcy”), Prorentals, Inc., Case No. 13-36408 (the “Prorentals Bankruptcy”) and Superior Vehicle Leasing Co., Inc., Case No. 13-36410 (the “Superior Bankruptcy”).<sup>1</sup> The Trustee has been appointed, and continues to act, as the Chapter 11 trustee in the Michael Brown Individual Bankruptcy Case and as Chapter 7 trustee in each of the other Bankruptcy Cases.

14. The Bankruptcy Cases are being jointly administered and the lead case is the Brown Individual Bankruptcy Case.<sup>2</sup>

15. The Estates of Brown, Superior, Lionheart, MG Brown Co. and Prorentals (collectively the “Debtors”) own various personal property. In many instances, Brown used the

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<sup>1</sup> The MG Brown Co. Bankruptcy, Lionheart Bankruptcy, Prorentals Bankruptcy, Superior Bankruptcy and the Brown Individual Bankruptcy cases are all referred to collectively as the “Bankruptcy Cases”.

<sup>2</sup> The Trustee is also Chapter 7 trustee in the bankruptcy case of Castlemene, Inc., Case No. 13-36407 (“Castlemene Bankruptcy”) which is also being jointly administered together with these other Bankruptcy Cases, however, none of the assets made the subject of this Motion are owned by Castlemene and the Trustee does not seek relief in this Motion related to Castlemene’s estate.

Debtors as special purpose entities to hold assets for his personal use, including certain of the Vehicles. A chart listing the make, model and year of the Vehicles plus the VIN, any lienholder and the Estate holding title is attached hereto as **Exhibit A** (the “Vehicle Chart”).

16. The Vehicles were being kept at either the Allison Property<sup>3</sup> or a warehouse in Miami (the “Vehicle Warehouse”). Currently, all of the Vehicles are in the possession of AAI.

17. The Trustee engaged AAI for the purpose of taking an inventory and preparing a valuation of the personal property located at the Allison Road Property and the Vehicle Warehouse, including the Vehicles. That engagement was approved by this Court [Doc. 901] and was limited to preparing the inventory.<sup>4</sup>

18. Moreover, in addition to the Vehicles, there were also a number of household items and furniture located in the Vehicle Warehouse. These items largely consist of household items and furnishings from Dr. Brown’s Miami Beach condominium where he previously resided (referred to herein collectively as the “Furnishings”). A true and correct copy of the Furnishings is attached hereto as **Exhibit B** (the “Furnishings List”).

#### **IV. RELIEF REQUESTED**

19. The Trustee respectfully asserts that it is necessary to engage AAI as his auctioneer pursuant to 11 U.S.C. §§ 327 and 328 to hold auctions in Florida to sell personal property owned by the Bankruptcy Estates.

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<sup>3</sup> The Allison Property is owned by the MG Brown Co. Estate.

<sup>4</sup> The engagement was limited at the time because the Trustee was acting quickly with an eye toward asset protection and did not have a full understanding of what was owned by Brown. Additionally, at the time, only the Brown Individual Bankruptcy Case was pending. After filing the application and after obtaining additional information, the Trustee filed the other Bankruptcy Cases.

20. The Trustee seeks to engage AAI and utilize its expertise and services in selling four “groups” of assets as follows: (1) the Vehicles (except to the extent that agreements are reached otherwise with any secured lenders); (2) the Furnishings; (3) jewelry and watches; and (4) the contents of the Allison Road House and other storage units.

21. This Motion also seeks authority to sell the Vehicles (except those Vehicles with liens as may be carved out from the sale) and the Furnishings.

**IV. Application for Approval of AAI as the Estate’s Auctioneer**

22. The Trustee desires to engage AAI to sell at auction the Vehicles, the Furnishings and other personal property owned by Bankruptcy Estates as may be approved through future motions. The contact information for Crooks is as follows:

Address: 6537 Southern Blvd., #2  
West Palm Beach, FL 33413  
Phone: (561)682-3191  
Fax: (561)682-9505  
Email: [auctionamericainc@gmail.com](mailto:auctionamericainc@gmail.com)  
Website: <http://www.2bid4stuff.com>

23. The Affidavit of disinterestedness of Stan Crooks is attached hereto as **Exhibit C** and incorporated herein by reference (“Affidavit”). Attached to the Affidavit are the summary of appraiser’s qualifications, AAI’s license and bond.

24. The Trustee has selected AAI for the reason that he has considerable experience in matters of this nature. The Trustee is of the opinion that AAI is well qualified to perform the auction services required for the sale of Estate property in Florida. Specifically, the Trustee sent requests for referrals of to appraisers and auctioneers to all chapter 13 and chapter 7 trustees in the Southern District of Florida. The Trustee received responses from three trustees and AAI was recommended



by two of them. Both of the referring trustees highly recommended AAI and relayed successful experiences they have had with utilizing AAI's services not only as an appraiser, but specifically as an auctioneer. The Trustee emailed and called six other auction houses and received responses from two: One was a smaller operation and the Trustee determined that it did not appear to have the right type of bankruptcy experience and little to no experience appraising high end vehicles and furnishings. The second was a large auction house that would likely be able to handle the job and the Trustee considered hiring this larger establishment earlier in the case to conduct the appraisals and later auctions however: (i) its proposed rates for appraisals were higher, (ii) it had less flexibility in terms of immediate availability, (iii) it was less responsive and (iv) it did not come highly recommended from the Florida trustees that responded to the Trustee's request for referrals. AAI, on the other hand, has been valuable to the Trustee and has shown itself to be more than capable of handling auctions of the Estates' property.

25. Moreover, the Trustee has already engaged AAI to conduct inventories of personal property located in Florida. AAI, and specifically Crooks, has gone above and beyond the call of duty in this case assisting the Trustee and preserving assets of the Estates. Crooks assisted the Trustee with issues when the Trustee had no one else in Florida to call upon for immediate assistance, including recovering vehicles in the possession of former friends/employees of Brown. Crooks provided valuable assistance to the Trustee's counsel when she was in Miami by accompanying her to meet with witnesses to recover additional property (such as cash) and personal property located in a storage unit. Crooks also assisted the Trustee in doing title research on some vehicles and physically searched the Allison Property for valuables.

26. Furthermore, AAI is a sponsor of an event called West Palm Beach Supercar Week

to be held January 4-12, 2014. A visitor's website for West Palm Beach describes Supercar Week as follows:

West Palm Beach Supercar Week, January 4-12, 2014, is an event for car enthusiast from all over the country and worldwide, coming to Palm Beach County for a full week of spectacular events held throughout different venues. West Palm Beach Supercar Week defines Palm Beach County as the premiere auto enthusiasts destination world-wide each January.

Held on the West Palm Beach Waterfront, the event has grown into a significant county wide, week long series of events including: Private VIP and public events, opening day of the Polo Season at the International Polo Club on Wellington, a Track Day event at Palm Beach International Raceway, SuperCar at The Gardens in Palm Beach Gardens, Media Day, SuperCar @ The Norton Museum of Art, SuperCar @ Midtown / PGA Blvd. a specially curated art exhibition, this year entitled, The History of Formula 1 and the Grand Finale, SuperCar SuperShow Sunday on the West Palm Beach Waterfront.

27. The Trustee, exercising his business judgment, asserts that the employment of AAI as auctioneer is in the best interest of the Estates.

28. Crooks, CAI, CES, serves as President of AAI and is a Florida State Bid Calling Champion, two time past President of the Florida Auctioneer's Association, 2011 recipient of the Hall of Fame award for Florida Auctioneer's Association, an active member of the National Auctioneer's Association where he holds the designations of Certified Auctioneer's Institute and Certified Estate Specialist, a member of the National Association of Bankruptcy Trustees, Realtors Association of the Palm Beaches, Florida Realtors Association and National Association of Realtors. AAI serves many institutional sellers including bankruptcy trustees, banks, receivers, colleges, municipalities, government agencies, probate and estate attorneys, finance companies, brokers, retailers, dealers and wholesalers.

29. To the best of the Trustee's knowledge after diligent inquiry and based on the

Affidavit of Stan Crooks attached hereto, AAI has no connection with the Debtor, creditors, any other party-in-interest, their respective attorneys, and the United States Trustee or any person employed in the Office of the United States Trustee.

30. To the best of the Trustee's knowledge, based on the Affidavit of Stan Crooks attached hereto, AAI and Crooks do not represent any interest adverse to the Debtors or the Estates in the matters for which AAI is to be engaged. AAI has not received any compensation or retainer from the Debtors, the Trustee or the Estates.

31. According to the Affidavit of Crooks attached hereto, AAI and Crooks (a) are not creditors, equity security holders, or insiders of the Debtors; (b) are not and were not, within two years before the date of the filing of the petition, directors, officers, or employees of the Debtors; and (c) do not have an interest materially adverse to the interest of the Estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors or for any other reason.

#### **V. Sale at Auction**

32. AAI is willing to perform the auction of the Vehicles and the Furnishings for a 10% buyer's premium on the items sold at each auction, plus expenses. The Trustee seeks authority to sell the Vehicles and the Furnishings as follows:

##### **A. Vehicle Auction:**

33. The terms of the Vehicle Auction are set forth on the proposal attached hereto as **Exhibit D** and are summarized as follows:

- \* AAI is entitled to a 10% buyer's premium, and no other commission on the items sold.

- \* With respect to the Vehicles, AAI is entitled to reimbursement of its expenses without further order of the court up to \$35,000. If the expenses exceed \$35,000, AAI is entitled to reimbursement of those additional expenses only after application to and approval by the Court.
- \* The Auction will occur on January 11, 2014, with any unsold items to be sold at auction at a later date and time. The Trustee has the right to opt out of any further auctions if the items are not sold, and to pursue other means to sell such property.
- \* AAI will segregate sale proceeds by Estate and report to each Estate for the sale of Vehicles owned by such Estate.
- \* Expenses for any specific Vehicle will be apportioned to the particular Estate that owns that Vehicle and global expenses for storage and security will be pro rated as between the Estates.

**B. Furnishings Auction:**

- 34. AAI will receive a 10% buyer's premium on items sold.
- 35. AAI will be entitled to reimbursement of up to \$2,000.00 in expenses incurred for storing, transporting and securing the Furnishings without further order of the Court. To the extent AAI's expenses exceed \$2,000.00, it is only entitled to recover the reasonable and necessary expenses approved by this Court after application thereto.

**C. Sales Under § 363:**

- 36. A sale of Estate property outside the ordinary course of business is proper, but the Trustee must articulate a sufficient business reason for the sale and show that the sale is in the best interest of the Estate (*i.e.* that it is fair and reasonable), that the property has been given adequate

marketing, that the sale has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith and that the sale is an arms-length transaction. *See, e.g., In re Continental Airlines, Inc.*, 780 F.2d 1223, 1225 (5th Cir. 1986); *In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830 (Bankr. C.D. Cal. 1991). In evaluating such a sale, the Court must balance the need for flexibility with the concern of affected creditors. *In re Terrace Gardens Park Partnership*, 96 B.R. 707, 715 (Bankr. W.D. Tex. 1989). The Court must also determine that creditor's lien rights are adequately protected and that the offered price is the highest price obtainable under the circumstances in the particular case. *Id.*; *In re Beker Indus. Corp.*, 63 B.R. 474, 477-78 (Bankr. S.D.N.Y. 1986). Further, § 704(1) of the Bankruptcy Code provides that the Trustee shall collect and reduce to money the property of the estate for which such trustee serves.

37. The Trustee seeks to sell the Vehicles and the Furnishings free and clear of all liens, claims, interests and encumbrances. The Bankruptcy Code provides that property may be sold free and clear of "any interest in such property other than the estate" only if certain conditions are met. § 363(f). Section 363(f) provides a list of these conditions as follows:

- (1) applicable non-bankruptcy law permits the sale of such property free and clear of interests;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding to accept a money satisfaction of such interest.

In evaluating such a sale, a court must balance the need for flexibility with the concern of affected creditors. *In re Terrace Gardens Park Partnership*, 96 BR. 707, 715 (Bank. W.D. Tex. 1989).

38. The Trustee is informed and believes that there are no liens on the Furnishings and, accordingly, they can be sold free and clear under §363(f).

39. As for the Vehicles, many are unencumbered. The Vehicle List identifies the particular Vehicles not encumbered by liens. Moreover, the Vehicle List identifies three (3) vehicles on which Icon Bank holds a lien. Icon and the Trustee have entered into agreed orders conditioning the stay which require Icon Bank pay AAI a portion of the expenses of AAI for securing, transporting and storing the vehicles on which Icon holds a lien. [Orders at Docket Numbers 891, 892 and 893]. This will decrease the overall expenses to the Estates of selling the Vehicles. Moreover, the Trustee has been informed that Icon is keeping its collateral vehicles in the auction during Supercar Week which will only add to the interest in the auction.

40. NRI Brokerage asserts liens on the three (3) following Vehicles: (1) the 1931 Cadillac Phaeton, (2) the 2007 Prevost Motorcoach and (3) a 2011 Lincoln. NRI asserts it is owed approximately \$465,000. AAI initially valued the 1931 Cadillac Phaeton at approximately \$150,000, however, AAI has informed the Trustee that it now believes this to be a very conservative value. AAI has further informed the Trustee that the Cadillac is an extremely rare automobile that is difficult to value because there is a lack of such vehicles on the market and that it is possible, and even likely, that the car will bring significantly more than \$150,000.00 at auction. In fact, AAI has amended its valuation of the 1931 Cadillac Phaeton and stated that the average sale prices for this vehicle since 2009 has been up to \$450,000. A true and correct copy of a list of comparable sales provided to the Trustee by AAI is attached hereto as **Exhibit E**. Further, the Trustee disputes the validity of the lien

on the 2007 Prevost Motorcoach, which lien was never perfected. A true and correct copy of the Florida certificate of title to the 200 Prevost Motorcoach (owned by the Estate of MG Brown Co.) is attached hereto as **Exhibit F**. The face of the title provides that no lienholder exists. Therefore, the Trustee asserts the lien is avoidable and there is a bona fide dispute with respect thereto. *See*, § 319.27 FL STAT. ANN. (which requires that, to be enforceable, a lien on a motor vehicle or motor home with a Florida certificate of title must be noted on the face of the title and that a “sworn notice of such lien” must be filed in the department of motor vehicles).

41. Given that there may be equity in the Cadillac, and given that the lien on the Prevost Motorcoach is unperfected, the Trustee and NRI are engaging in good faith discussions. The Trustee is proposing that (1) NRI’s collateral should be surcharged with AAI’s expense to transport, store and secure the vehicles, (2) NRI should be paid from the proceeds of the Lincoln and the Cadillac, up to the balance owing on its indebtedness secured by those Vehicles, with any equity remaining for the Estates and that (3) to the extent NRI is not paid in full from the proceeds of the Cadillac and Lincoln, that its lien, if any, should attach to the sale proceeds of the 2007 Prevost Motorcoach subject to further order of the Court determining the extent and validity of NRI’s lien on that Vehicle.

42. Some of the advertising methods used by AAI are discussed in the Vehicle auction proposal attached hereto and in the introductory paragraph to this Motion dealing with “Cause for Emergency Consideration” and the Trustee incorporated those discussions herein. Additionally, AAI utilizes its website, newspaper advertisements, e-blasts, mail outs and flyers passed out at other auctions as additional marketing and advertising for its auctions including the Vehicles and the Furnishings.

43. In the exercise of his business judgment, the Trustee believes that the proposed sales are fair and reasonable and that the sale of the Vehicles and the Furnishings on the terms described herein is in the best interest of the creditors and the Estates because valuable property of the Estates will be liquidated for the benefit of the unsecured creditors. For the reasons expressed herein, the proposed auctions are fair and reasonable.

44. The sale will be **“AS IS, WHERE IS” with the Trustee making NO REPRESENTATIONS OR WARRANTIES.**

45. Pursuant to 11 U.S.C. § 363(b), the Court should approve the sale of the Vehicles and the Furnishings as requested herein.

46. The Trustee further requests that the Court waive the stay imposed by Federal Rule of Bankruptcy Procedure 6004(g) so that the auctions and preparation for the auctions may proceed immediately.

WHEREFORE, the Trustee prays that the Court enter an order: (a) employing and appointing AAI to represent him as his auctioneer to sell property of the Estates located in Florida; (b) approving the sale of the Vehicles and Furnishings as requested herein; and (c) granting such other



and further relief to which he may show himself justly entitled

Respectfully Submitted,

By: /s/ Gretchen G. McCord

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(713) 960-0303 (main)  
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**GENERAL COUNSEL FOR RONALD J. SOMMERS,  
CHAPTER 7 TRUSTEE**

Respectfully submitted,

By: /s/ Ronald J. Sommers

Ronald J. Sommers, Trustee  
Texas Bar No. 18842500  
2800 Post Oak Blvd., 61st Floor  
Houston, Texas 77056-5705  
(713) 960-0303--Phone  
(713) 892-4800--Fax

**CERTIFICATE OF SERVICE**

A copy of the foregoing Trustee's Application for Authority to Employ An Appraiser was served on all parties on the service list attached as by U.S. Mail, postage prepaid or ECF, on this 26<sup>th</sup> day November, 2013.

/s/ Gretchen McCord

Gretchen McCord

**Certificate of Authenticity**

The undersigned certifies that the facts contained in the foregoing Motion are true and correct to the best of her knowledge.

/s/ Gretchen McCord

Gretchen McCord

# Service List

## Debtors

Michael Glyn Brown  
1001 Brickell Bay Drive, #2600  
Miami, FL 33131-4940

Michael Glyn Brown  
6633 Allison Rd.  
Miami Beach, FL 33141

Castlemane, Inc.  
c/o Ronald J. Sommers  
2800 Post Oak Blvd., 61<sup>st</sup> Floor  
Houston, TX 77056

Lionheart Company, Inc.  
c/o Ronald J. Sommers, Trustee  
2800 Post Oak Blvd., 61<sup>st</sup> Floor  
Houston, TX 77056

MG Brown Company, LLC  
c/o Ronald J. Sommers, Trustee  
2800 Post Oak Blvd., 61<sup>st</sup> Floor  
Houston, TX 77056

Prorentals, Inc.  
c/o Ronald J. Sommers  
2800 Post Oak Blvd., 61<sup>st</sup> Floor  
Houston, TX 77056

Superior Vehicle Leasing Co., Inc.  
c/o Ronald J. Sommers  
2800 Post Oak Blvd., 61<sup>st</sup> Floor  
Houston, TX 77056

## U.S. Trustee

Office of the US Trustee  
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Houston, TX 77002-2604

American Express  
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Dallas, TX 75265

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San Diego, CA 92122

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Iberia Bank  
c/o Arnstein & Lehr LLP  
515 North Flagler Drive, Suite 600  
West Palm Beach, FL 33401-4321

Iberia Bank Direct  
CT Corporation  
5615 Corporate Blvd. Suite 400  
Baton Rouge, LA 70808-2568

Iberia Bank  
P.O. Box 13740  
New Iberia, LA 70562-3740

Iberia Bank  
c/o Mr. Bruce J. Ruzinsky  
Matthew Cavenaugh  
JACKSON WALKER LLP  
1401 McKinney, Suite 1900  
Houston, TX 77010-1900

Icon Bank  
7908 N. Sam Houston Parkway West, Suite  
100  
Houston, TX 77064

Icon Bank  
777 Post Oak  
Houston, TX 77056

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